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erty from taxation, except as they are expressly authorized by the state.

[Ed. Note.—For other cases, see 10 Va.-W. V2. Enc. Dig. 235 et seq.]

3. Municipal Corporations (§ 967 (2)*)—Taxation—Exemptions—“Terms.”—Acts 1874-75, c. 219, as to taxes, authorizing sale of certain land on such terms as the city shall deem proper, does not empower city of Manchester to exempt such land from taxation; the word “terms,” as used in such statute, referring only to terms of payment of purchase money, including manner of securing any deferred payments, etc. (citing Words and Phrases, Terms).

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 235 et seq.]

4. Municipal Corporations (§ 967 (1)*)—Taxation—Agreement to Exempt Property—Equitable Set-Off.—A purchaser of land from a city, a very material part of consideration paid being an invalid agreement of city to exempt property from taxation, has no right of equitable set-off against an annual tax, in absence of a continued service to be rendered to city or proof of amount paid on account of tax exemption covenant.

Appeal from Chancery Court of Richmond.

Suit by the City of Richmond against the Virginia Railway & Power Company. Decree for defendant, and the plaintiff appeals. Reversed and remanded.

H. R. Pollard and *Geo. Wayne Anderson*, both of Richmond, for appellant.

E. R. Williams, *A. B. Guigon*, and *T. J. Moore*, all of Richmond, for appellee.

KEPPLER et al. v. CITY OF RICHMOND.

March 13, 1919.

[98 S. E. 747.]

1. Dedication (§ 2*)—Of Alley—City Charter Provision. — City charter provisions that, whenever any alley shall have been opened to and used by public for five years, it shall become an alley for all purposes, city having authority and jurisdiction over it as over others, are valid as statutory law, and, where the provisions apply, they are conclusive evidence of dedication.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 355.]

2. Dedication (§ 44*)—Of Alley—Charter Provisions—Evidence. —Under Richmond City Charter, § 24, providing that, whenever any

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

alley shall have been opened to and used by public for five years, it shall become an alley for all purposes, city having authority and jurisdiction over it, same evidence of dedication is necessary to put provision in operation as law requires to raise implication of common-law dedication from mere user of way.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 355.]

3. Municipal Corporations (§ 648*)—Streets—Use of Alley—Prescription.—Public user of alley by city, to give rise to public easement in land by prescription, must be under a claim of right, unequivocally adverse to owners.

4. Evidence (§ 353 (3)*)—Deed—Admissibility as against Plaintiffs Not in Privity.—In suit by land owners to restrain city from claiming strip of land as alley, deed held not admissible in evidence on any ground that its recitals were binding on plaintiffs, under rule applicable to recitals or declarations in deeds to which parties to cause are parties or privies; there being no privity of estate between plaintiffs and owners of land conveyed.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 760.]

5. Evidence (§ 372 (1)*)—Ancient Deed—Controversy Regarding Alley.—In suit to restrain city from claiming strip of land as alley, deed over 30 years old, declaring that rear line of lot it conveyed was on an alley, held admissible in evidence against plaintiffs, though they were not in privity with property conveyed, under exception which ancient deeds afford to rule as to inadmissibility of hearsay evidence; such declarations being admissible, though going beyond description of monuments marking mere boundary lines of land conveyed.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 372.]

6. Evidence (§ 383 (7)*)—Ancient Deeds—Weight.—Evidence afforded by recitals or declarations of ancient deed, over 30 years old, is not entitled to much weight, and may be repudiated by slight evidence of more definite character.

7. Evidence (§ 372 (3)*)—Ancient Deeds—30-Year Period.—Deeds less than 30 years old are inadmissible in evidence as ancient.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 372.]

8. Evidence (§ 372 (1)*)—Ancient Deeds.—In suit against city to restrain its claiming strip of land as public alley, deeds in chain of title of adjacent owner held admissible in evidence, as containing declaration with respect to alley being a wide alley, as ancient deeds over 30 years old.

9. Dedication (§ 15*)—Express and Implied. — There are two classes of dedications of a street or alley to a city, express and implied; the intent to dedicate being essential to both, though an im-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

plied dedication is founded on doctrine of estoppel in pais, so that intent to dedicate need not actually exist in mind of owner.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 353.]

10. Dedication (§ 37*)—Street or Alley—Public User.—Where public user is relied on to establish dedication to public of street or alley, user must be such as to indicate that public claim to way is as of right, and that owner is fully aware of extent and character of use, and does not object, though actual knowledge by owner need not be proved.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 355.]

11. Dedication (§ 35 (1)*)—Alley—Notice of Claim to Easement—Map Adopted by City.—Adoption by council of city of map or plan of city on file in city engineer's office held not sufficient to give notice to owners of land shown as alley of city's claim of public easement, in order to raise against owners presumption of dedication.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 358.]

12. Dedication (§ 44*)—Public Use of Alley—Sufficiency of Evidence.—In suit to restrain city of Richmond from claiming strip of land as public alley, on ground it had been dedicated to public use, unobjected to, evidence held to show that use by public was not unequivocally a use as of right.

Appeal from Chancery Court of Richmond.

Suit by Charles B. Keppler and others against the City of Richmond. From a decree dismissing the bill, plaintiffs appeal. Reversed, and decree entered for plaintiffs.

Daniel Grinnan and Coke & Pickrell, all of Richmond, for appellants.

H. R. Pollard and Jas. Lewis Anderson, both of Richmond, for appellee.

BROOKS *v.* CLINTSMAN.

March 20, 1919.

[98 S. E. 742.]

1. Deeds (§ 181*)—Alteration by Parties.—No erasure or alteration in a conveyance, or cancellation thereof by mutual consent, of the parties can divest an estate already vested by operation of a deed, in view of Code 1904, § 2413, providing that no estate in lands for a term of more than five years shall be conveyed unless by deed or will.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 445.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.